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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,560	07/06/2005	Stefan Breuer	PHDE030002US	5826

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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CLEVELAND, OH 44143

EXAMINER	
NAQI, SHARICK	
ART UNIT	**PAPER NUMBER**
3736	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/541,560	BREUER ET AL.	
	Examiner	Art Unit	
	Sharick Naqi	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 July 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/06/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sellers USPN 5,678,562, provided by the applicant.

1. A method of communicating with a medical device, in which an interface is provided to which either measurement means or an external device can be connected and via which measured signals or data are transmitted from the measurement means or the external device to the medical device. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17. The disk cartridge 26 of the embodiment that does not require the wireless data modem 28 rejects the claims.)

2. A method as claimed in claim 1, wherein the interface operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

3. A method as claimed in claim 2, wherein in the communication mode a software update is transmitted from a connected external device into the medical device via the interfaces. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

4. A method as claimed in claim 2, wherein a changeover between measurement mode and communication mode is effected automatically depending on whether measurement means or an external device are or is connected to the interface. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

5. A method as claimed in claim 4, wherein the automatic changeover is effected by means of software of the medical device, a switch at the interface or electronically by an operating mode circuit in the medical device. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

6. A method as claimed in claim 1, wherein the interface comprises contacts which can be used both in the measurement mode and in the communication mode. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

7. A method as claimed in claim 6, wherein all contacts required for the communication

mode can also be used in the measurement mode. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

8. An apparatus for communicating with a medical device, which apparatus comprises an interface that is designed such that either measurement means or an external device can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

9. A medical device with an apparatus for communication, which apparatus comprises an interface that is designed such that either measurement means or an external device can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

10. An apparatus as claimed in claim 8 or a medical device as claimed in claim 9, wherein the interface is designed such that it operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

11. An apparatus or a medical device as claimed in claim 10, wherein the interface is designed such that in the communication mode a software update can be transmitted from a connected external device into the medical device via the interface. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

12. An apparatus or a medical device as claimed in claim 10 or 11, wherein the interface is designed such that a changeover between measurement mode and communication mode can be effected automatically. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

13. An apparatus or a medical device as claimed in claim 12, wherein software of the medical device is designed for the automatic changeover, or a switch at the interface or an operating mode circuit in the medical device is provided for the automatic changeover. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

14. An apparatus or a medical device as claimed in claim 9, wherein the interface comprises contacts which can be used both in the measurement mode and in the communication mode. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

15. An apparatus or a medical device as claimed in claim 14, wherein all contacts required for the communication mode can also be used in the measurement mode. (Column 2, lines 22-62, Column 6, lines 10-34 and 65-67, column 7, lines 28-54, column 11, lines 10-17)

Claims 1, 2 and 4-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Mault USPN 6,790,178.

1. A method of communicating with a medical device, in which an interface is provided to which either measurement means or an external device can be connected and via which measured signals or data are transmitted from the measurement means or the external device to the medical device. (Fig 3, element 46, Column 9, lines 1-32)

2. A method as claimed in claim 1, wherein the interface operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (Fig 3, element 46, Column 9, lines 1-32)

4. A method as claimed in claim 2, wherein a changeover between measurement mode and communication mode is effected automatically depending on whether measurement means or an external device are or is connected to the interface. (Fig 3, element 46, Column 9, lines 1-32)

5. A method as claimed in claim 4, wherein the automatic changeover is effected by means of software of the medical device, a switch at the interface or electronically by an operating mode circuit in the medical device. (Fig 3, element 46, Column 9, lines 1-32)

6. A method as claimed in claim 1, wherein the interface comprises contacts which can be used both in the measurement mode and in the communication mode. (Fig 3, element 46, Column 9, lines 1-32)

7. A method as claimed in claim 6, wherein all contacts required for the communication mode can also be used in the measurement mode. (Fig 3, element 46, Column 9, lines 1-32)

8. An apparatus for communicating with a medical device, which apparatus comprises an interface that is designed such that either measurement means or an external device can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (Fig 3, element 46, Column 9, lines 1-32)

9. A medical device with an apparatus for communication, which apparatus comprises an interface that is designed such that either measurement means or an external device can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (Fig 3, element

46, Column 9, lines 1-32)

10. An apparatus as claimed in claim 8 or a medical device as claimed in claim 9, wherein the interface is designed such that it operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (Fig 3, element 46, Column 9, lines 1-32)

11. An apparatus or a medical device as claimed in claim 10, wherein the interface is designed such that in the communication mode a software update can be transmitted from a connected external device into the medical device via the interface. (Fig 3, element 46, Column 9, lines 1-32)

12. An apparatus or a medical device as claimed in claim 10 or 11, wherein the interface is designed such that a changeover between measurement mode and communication mode can be effected automatically. (Fig 3, element 46, Column 9, lines 1-32)

13. An apparatus or a medical device as claimed in claim 12, wherein software of the medical device is designed for the automatic changeover, or a switch at the interface or an operating mode circuit in the medical device is provided for the automatic changeover. (Fig 3, element 46, Column 9, lines 1-32)

14. An apparatus or a medical device as claimed in claim 9, wherein the interface comprises contacts which can be used both in the measurement mode and in the communication mode. (Fig 3, element 46, Column 9, lines 1-32)

15. An apparatus or a medical device as claimed in claim 14, wherein all contacts required for the communication mode can also be used in the measurement mode. (Fig 3, element 46, Column 9, lines 1-32)

Claims 1-5 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by McKinnon et al. USPN 6,190,326, provided by the applicant.

1. A method of communicating with a medical device, in which an interface (base unit 12 with the wireless transceiver 44) is provided to which either measurement means (smart inhaler unit 26) or an external device (docking station 12) can be connected and via which measured signals or data are transmitted from the measurement means or the external device to the medical device. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

2. A method as claimed in claim 1, wherein the interface operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

3. A method as claimed in claim 2, wherein in the communication mode a software update is transmitted from a connected external device into the medical device via the interfaces. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

4. A method as claimed in claim 2, wherein a changeover between measurement mode and communication mode is effected automatically depending on whether measurement means or an external device are or is connected to the interface. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

5. A method as claimed in claim 4, wherein the automatic changeover is effected by means of software of the medical device, a switch at the interface or electronically by an operating mode circuit in the medical device. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

8. An apparatus for communicating with a medical device, which apparatus comprises an interface that is designed such that either measurement means or an external device can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

9. A medical device with an apparatus for communication, which apparatus comprises an interface that is designed such that either measurement means or an external device

can be connected to it and measured signals or data can be transmitted from the measurement means or the external device to the medical device via it. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

10. An apparatus as claimed in claim 8 or a medical device as claimed in claim 9, wherein the interface is designed such that it operates in a measurement mode when measurement means are connected and in a communication mode when an external device is connected. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

11. An apparatus or a medical device as claimed in claim 10, wherein the interface is designed such that in the communication mode a software update can be transmitted from a connected external device into the medical device via the interface. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

12. An apparatus or a medical device as claimed in claim 10 or 11, wherein the interface is designed such that a changeover between measurement mode and communication mode can be effected automatically. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

13. An apparatus or a medical device as claimed in claim 12, wherein software of the medical device is designed for the automatic changeover, or a switch at the interface or

an operating mode circuit in the medical device is provided for the automatic changeover. (column 4, lines 53-65, column 7, lines 25-67, column 8, lines 1-5)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is 571-272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SN
September 10, 2007

Michael Astorino